IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3718 OF 2005

1. Smt. Vijaylaxmi Shrinivas]
Shegur, Age 30, Adult, Occ :]
2. Shri Shrinivas Sudarshan]
Shegur, Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]
Peth, Solapur)]..Petitioners

versus

1. Vikas Co-op. Bank Ltd.]
having its main office at]
2 Bali Ves Jaju Chowk, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

WITH
WRIT PETITION NO. 3728 OF 2005

1. Smt. Padmavati Anand Shegur]
Age 32, Adult, Occ :]
2. Shri Anand Sudarshan]
Shegur, Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]
Peth, Solapur)]..Petitioners

versus

1. Vikas Co-op. Bank Ltd.]
having its main office at]
2 Bali Ves Jaju Chowk, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

WITH
WRIT PETITION NO. 3735 OF 2005

1. Smt. Padmavati Anand Shegur]

Age 32, Adult, Occ :]
2. Shri Anand Sudarshan Shegur]
Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]
Peth, Solapur)]..Petitioners

versus

1. Bank of Maharashtra]
having its main office at]
Lokmangal, Shivajinagar, Pune]
and having its Branch at Ashok]
Chowak, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

WITH
WRIT PETITION NO. 3780 OF 2005

1. Smt. Sarasvati Arun Shegur]
Age 33, Adult, Occ :]
2. Shri Arun Sudarshan Shegur]
Shegur, Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]
Peth, Solapur)]..Petitioners

versus

1. Vikas Co-op. Bank Ltd.]
having its main office at]
2 Bali Ves Jaju Chowk, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

WITH

WRIT PETITION NO. 3781 OF 2005

1. Shrinivas Sudarshan Shegur]
Age 38, Adult, Occ :]
2. Smt. Suvarnabai Sudarshan]
Shegur, Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]

Peth, Solapur)]..Petitioners

versus

1. Bank of Maharashtra]
having its main office at]
Lokmangal, Shivajinagar, Pune]
and having its Branch at Ashok]
Chowak, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

WITH
WRIT PETITION NO. 3783 OF 2005

1. Smt. Sarasvati Arun Shegur]
Age 33, Adult, Occ :]
2. Shri Arun Sudarshan Shegur]
Shegur, Age: Adult, Occ:]
(Both R/a. 34/3A/1/5 New Pacchha]
Peth, Solapur)]..Petitioners

versus

1. Bank of Maharashtra,]
having its main office at]
Lokmangal, Shivajinagar, Pune]
and having its Branch at Ashok]
Chowak, Solapur]
2. Shri Sudarshan Bhumaya Shegur]
Age: Adult, Occ:]
R/at 907, New Pacchha Peth,]
Solapur]..Respondents

Shri Sachin Dhakephalkar Advocate for the Petitioners.
Shri S. S. Shah for the Respondent No.2.

CORAM : R.M.S. KHANDEPARKAR &
NARESH H. PATIL, JJ.

DATE : 22ND AUGUST, 2006

ORAL JUDGMENT : (Per: R.M.S. Khandeparkar, J.) :

1. Since, common question of facts and law arise in all these petitions, they are heard together and are being disposed of by this common Judgment.

2. Rule in all the petitions. By consent, Rule made returnable forth, in all the petitions.

3. In all these petitions, the Petitioners challenge the orders passed by the Revisional Authority under The Consumer Protection Act, 1986, dismissing the Revision Application, as well as the Review Application. As far as dismissal of Review Application is concerned, the question of interference does not arise as the concerned Authority had no jurisdiction to Review its Orders under the Act under which the said Authority is constituted and therefore no fault can be found with the orders dismissing Review Applications.

4. As far as the orders which have been passed by the Revisional Authority, the impugned orders apparently disclose that the Revision Applications

have been allowed against the order passed by the District Forum, solely on the ground that the District Forum failed to consider that before filing the applications before the Consumer Forum, the Respondents had filed Civil Suits in the Civil Court, that therefore the proceedings under The Consumers Protection Act were not maintainable as the decision in the Civil Suits would be binding on the parties.

5. Plain reading of the impugned orders passed by the Revisional Authority discloses that the said Authority merely because it was informed that the Respondent has filed Civil Suits that it had held that the proceedings before the District Forum under the Consumer Protection Act, were not maintainable. The Revisional Authority has not ascertained as to whether the subject matter of the Civil Suits and the cause of action which arose for filing the Civil Suits had any similarity or relation with the subject matter and the cause of action for filing the proceedings before the District Forum under the Consumer Protection Act.

6. Before, holding that the decision of the

Civil Court could be binding on the parties and that therefore the proceedings under The Consumer Protection Act instituted subsequent to the filing of the Suit, could be held to be not maintainable, it was necessary for the Revisional Court to ascertain as to whether the subject matter of the proceedings before the Consumer Forum and the one in the Civil Suits was one and the same, and, further whether the cause of action for filing the Civil Suit is also same as that for initiation of the proceedings before the Consumers Forum. Without ascertaining these aspects, the impugned orders having been passed, the same are not sustainable and are liable to be set aside and the matters be remanded to the Revisional Authority to consider the said aspects and to pass appropriate orders after hearing the parties.

7. It is also informed that Civil Suits have already been dismissed. It is not necessary for us to deal with this aspect of the matter, and it is open to the parties to bring all the facts necessary for the decision to the notice of the Revisional Authority while hearing the matters. Needless to say that the Revisional Authority will have to take

into consideration pendency of all the proceedings including the Arbitration proceedings, if any, and to ascertain whether the subject matters and cause of action in relation to both the proceedings are one and the same before passing appropriate order.

8. In the result, impugned orders are hereby set aside. Matters are remanded to the Revisional Authority under the said Act to deal with the Revision Applications afresh in accordance with the provisions of law bearing in mind the observations made hereinabove. Rules made absolute accordingly in all the Petitions with no order as to costs.

(R.M.S. KHANDEPARKAR, J.)

(NARESH H. PATIL, J.)